

Yutaska Simpson - 10/26/04

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

OLIVIA Y, By and  
Through Her Next Friend,  
James D. Johnson, et al. PLAINTIFFS  
VS. CIVIL ACTION NO. 3:04CV25LN  
HALEY BARBOUR, As Governor  
Of the State of Mississippi;  
DONALD TAYLOR, as Executive  
Director of the Department of  
Human Services; and BILLY MANGOLD,  
As Director of the Division of  
Children's Services DEFENDANTS

DEPOSITION OF YUTASKA SIMPSON

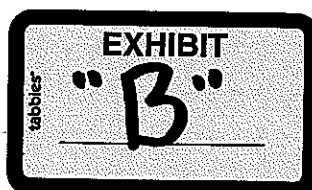
Taken at the instance of the Defendant at the  
offices of Bradley Arant, LLP, One Jackson Place,  
188 E. Capitol Street, Suite 450, Jackson,  
Mississippi, on Thursday, October 26, 2004,  
beginning at approximately 1:04 p.m.

APPEARANCES:

ERIC E. THOMPSON, ESQ.  
SHIRIM NOTHENBERG, ESQ.  
Children's Rights, Inc.  
404 Park Avenue South  
New York, NY 10016  
COUNSEL FOR PLAINTIFFS

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Brooks Court Reporting  
1-800-245-3376



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Also Present: Earl Scales, Office of Attorney General	<div>Page 4</div> <div>EXHIBITS PAGE</div> <div>Exhibit 14 - Order, ██████ County Youth Court 20</div> <div>Exhibit 15 - Court Report, ██████ County Youth Court 24</div> <div>Exhibit 16 - Foster Care Review 43</div> <div>Exhibit 17 - Report Indicating Ms. ██████ Wants to Adopt ██████ 46</div> <div>Exhibit 18 - Developmental Evaluation from Project Prince 62</div> <div>Exhibit 19 - Foster Care Review 69</div> <div>Exhibit 20 - Singing River Hospital Discharge Plan 78</div> <div>Exhibit 21 - Hospital Discharge Summary 86</div> <div>Exhibit 22 - Removal Request to Youth Court 94</div> <div>Exhibit 23 - Ms. ██████ Complaint 101</div> <div>Exhibit 24 - Report of Suspected Abuse Neglected Child Or Vulnerable Adult 109</div> <div>Exhibit 25 - Notice of Change 113</div> <div>Exhibit 26 - Notice of Change 114</div>	Page 4
Reported By: Julie Brown, CSR #1587 Brooks Court Reporting Post Office Box 2632 Jackson, Mississippi 39207 (601) 362-1995	<div>Page 3</div> <div>INDEX PAGE</div> <div>Style and Appearances 1</div> <div>Index 3</div> <div>Certificate of Deponent 128</div> <div>Certificate of Court Reporter 129</div> <div>EXAMINATIONS PAGE</div> <div>Examination By Mr. Thompson 5</div> <div>Page 5</div> <div>YUTASKA SIMPSON,</div> <div>having been first duly sworn, was examined and testified as follows:</div> <div>EXAMINATION BY MR. THOMPSON:</div> <div>Q. Good afternoon, Ms. Simpson.</div> <div>A. Hi.</div> <div>Q. My name is Eric Thompson. I'm one of the attorneys from Children's Rights representing the plaintiff in the matter of Olivia Y. Do you understand that you're here to give sworn testimony in that matter?</div> <div>A. Yes.</div> <div>Q. Just a couple of ground rules. If at any point you don't understand a question that I ask, please let me know. I'll try to rephrase it. If at any point you wish to clarify a prior response, let me know. We'll do that on the record. And if at anytime you wish to take a break, please let us know and we'll do that as well.</div> <div>A. Okay.</div> <div>Q. Ms. Simpson, have you done anything in preparation for today's deposition?</div> <div>A. No, no more than contacting the attorney, getting directions, and asking the -- I know Earl Scales from the Attorney General's Office, and I</div>	Page 5

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<p style="text-align: right;">Page 106</p> <p>1 legal non-relative?</p> <p>2 Q. And how did you in fact invite her? Was</p> <p>3 that over the phone or by letter or in person?</p> <p>4 A. Probably a phone call. I'm not sure.</p> <p>5 Q. Did you ever sit down with her and</p> <p>6 discuss her willingness to adopt [REDACTED]?</p> <p>7 A. I can't say, but I believe I did in the</p> <p>8 process of explaining that we have to make every</p> <p>9 reasonable effort and the importance of in the sense</p> <p>10 dotting your I's, crossing your T's.</p> <p>11 Q. If you did in fact have this</p> <p>12 conversation, is that something you would have</p> <p>13 documented in your narratives?</p> <p>14 A. I remember maybe talking to her when I</p> <p>15 was bringing [REDACTED] back and forth or picking [REDACTED]</p> <p>16 up. And I remember the demeanor is not wanting --</p> <p>17 wanting to adopt, not wanting to consider anything</p> <p>18 else.</p> <p>19 Q. So you're saying she did want to adopt;</p> <p>20 she confirmed that for you?</p> <p>21 A. Yes.</p> <p>22 Q. Can you turn to page two of Exhibit 23?</p> <p>23 At the top, second sentence, she states, "I called</p> <p>24 her job and was told that she was on leave." Do you</p> <p>25 recall being on leave at the end of December '03 and</p>	<p style="text-align: right;">Page 108</p> <p>1 A. Sharon Carter.</p> <p>2 Q. Did you ever have to explain to the court</p> <p>3 why after a year and a half with [REDACTED] she had</p> <p>4 requested that he be removed?</p> <p>5 A. No, I don't recall having to explain. I</p> <p>6 may have.</p> <p>7 Q. After you placed him in the shelter,</p> <p>8 where did you place him next, if you recall?</p> <p>9 A. In the [REDACTED] foster home.</p> <p>10 Q. And how long did he stay there?</p> <p>11 A. I really don't know. I'm going to say</p> <p>12 probably a week or less.</p> <p>13 Q. Was that the time he was hospitalized</p> <p>14 another time?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And after his hospitalization, did he</p> <p>17 return to the [REDACTED] home or was he placed</p> <p>18 somewhere else?</p> <p>19 A. He was -- he was -- I asked permission to</p> <p>20 place him back in the shelter.</p> <p>21 Q. Was he in fact placed back in the</p> <p>22 shelter?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And do you recall how long he stayed in</p> <p>25 the shelter that time?</p>
<p style="text-align: right;">Page 107</p> <p>1 beginning of January '04?</p> <p>2 A. I'm thinking that was during the</p> <p>3 Christmas holidays that time that I took leave.</p> <p>4 Q. Would that have just been vacation or</p> <p>5 were you actually on a leave?</p> <p>6 A. Oh, I don't know. I don't know. It</p> <p>7 might have been personal leave or it might have been</p> <p>8 sick leave. I'm not sure. But I'm thinking it was</p> <p>9 probably personal leave if I wasn't sick.</p> <p>10 Q. And do you recall how long you were out?</p> <p>11 A. Probably a week.</p> <p>12 Q. And when you or your coworkers are out</p> <p>13 for a week, is there any procedure in place for case</p> <p>14 coverage while you're out?</p> <p>15 A. The homemaker.</p> <p>16 Q. Are the homemakers assigned your case</p> <p>17 while you're out?</p> <p>18 A. No, they are not assigned. Homemakers</p> <p>19 are supportive services to the social worker. And</p> <p>20 this is -- this is -- this particular homemaker was</p> <p>21 assigned to work with me with [REDACTED].</p> <p>22 Q. So when you went out on leave, the case</p> <p>23 was being covered by this particular homemaker?</p> <p>24 A. Yes.</p> <p>25 Q. And who was that?</p>	<p style="text-align: right;">Page 109</p> <p>1 A. I don't know, but he was sick and I</p> <p>2 wanted him stabilized pretty much. I think the</p> <p>3 weather was -- the weather was bad. It wasn't I</p> <p>4 don't think that we had a -- didn't have a foster</p> <p>5 home, but I didn't want him with foster parents that</p> <p>6 had to work or he had to get out in the weather. I</p> <p>7 think the weather was inclement and that I wanted</p> <p>8 him getting his medicine routinely and not getting</p> <p>9 in and out of the weather.</p> <p>10 (Exhibit 24 - Report of Suspected Abuse</p> <p>11 Neglected Child Or Vulnerable Adult marked for</p> <p>12 identification.)</p> <p>13 Q. Let me show you what's been marked</p> <p>14 Exhibit Number 24. Do you recognize this document?</p> <p>15 A. Yes. It looks like it's from Dr. [REDACTED].</p> <p>16 Q. You've seen this document before?</p> <p>17 A. I can't recall.</p> <p>18 Q. Are you familiar with this form entitled</p> <p>19 "Report of Suspected Abuse Neglected Child Or</p> <p>20 Vulnerable Adult"?</p> <p>21 A. Yes.</p> <p>22 Q. Do you recall receiving this format</p> <p>23 sometime around March 8, 2004?</p> <p>24 A. Yes, uh-huh (affirmatively).</p> <p>25 Q. There apparent --</p>

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1 A. Yes.  
 2 Q. And this is in her letter sent after the  
 3 child was removed from her home?  
 4 A. Yes.  
 5 Q. As a result of Ms. [REDACTED] letter, have  
 6 you not discussed with your supervisor the  
 7 possibility that [REDACTED] could be adopted by Ms.  
 8 [REDACTED]?  
 9 A. Oh, I have never had -- no, I haven't  
 10 ever had that discussion.  
 11 Q. Do you have any specific reason to  
 12 believe she'd be unfit to adopt [REDACTED]?  
 13 A. No.  
 14 Q. What service is [REDACTED] currently  
 15 receiving, if you know?  
 16 A. I think, and I don't know for a fact,  
 17 that probably still Project Prince. He's in  
 18 daycare. Monthly visits. He hasn't been going to  
 19 the doctor as -- as he's done in the past. You  
 20 know, possibly because, you know, with -- he hadn't  
 21 had any bout with respiratory problems lately.  
 22 Q. And is that for the whole time that he's  
 23 been in the [REDACTED] foster home?  
 24 A. No, not to the whole time. I think  
 25 initially when he was placed he had some problems.

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1 I noticed congestion, runny nose, and but otherwise  
 2 he's energetic.  
 3 Q. Did he require any more trips to the  
 4 hospital since his placement in the [REDACTED] home?  
 5 A. No.  
 6 Q. Do you -- so has he not been hospitalized  
 7 again since March 26th of '04 when he was placed in  
 8 the [REDACTED] home?  
 9 A. I don't think so.  
 10 Q. Did he receive his two-year physical and  
 11 immunizations visit this past summer, if you know?  
 12 A. Yes, yes.  
 13 Q. He did?  
 14 A. Yes.  
 15 Q. And would that be documented in his case  
 16 record?  
 17 A. You may find an appointment with the  
 18 Health Department or you may find a report from the  
 19 doctor or maybe in a narrative. I'm not sure. I'm  
 20 not sure.  
 21 Q. Who's responsible for bringing him to the  
 22 doctor?  
 23 A. The foster -- the foster parent. And if  
 24 she has any problems, she can contact us and we'll  
 25 do it.

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1 Q. Do you know if he's on any medication  
 2 currently?  
 3 A. No.  
 4 Q. So he's not on any medication or you just  
 5 don't know?  
 6 A. I don't think he's on any. I don't know.  
 7 Now that I can recall, I think the homemaker took  
 8 him to his appointment.  
 9 Q. And when would that have been?  
 10 A. A couple of months ago if I'm not  
 11 mistaken.  
 12 Q. Do you know what his current  
 13 developmental needs are, if any?  
 14 A. No, not if I had to answer that today,  
 15 no. It appears that he's made some progress. I  
 16 mean, if you want me to guess, I have seen some  
 17 growth in him, verbal skills, and he has made some  
 18 progress?  
 19 Q. When was the last time you saw [REDACTED]?  
 20 A. I think in September, either August or  
 21 September. I think the last two visits [REDACTED]  
 22 did for me.  
 23 Q. Who decided to place the child in the  
 24 [REDACTED] foster home, was that you?  
 25 A. I think the program specialist may have

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1 recommended the [REDACTED]. The final decision would  
 2 have been me. I think she gave me two foster homes.  
 3 Q. Are there other children in the home?  
 4 A. They have one child.  
 5 Q. Of their own?  
 6 A. Yes.  
 7 Q. No other foster?  
 8 A. In the home, in the home.  
 9 Q. Right. No other foster children?  
 10 A. No.  
 11 Q. Do either the -- and is it Mr. and Mrs.  
 12 [REDACTED]?  
 13 A. Yes.  
 14 Q. Do either of them smoke?  
 15 A. Not that I know of.  
 16 Q. Do they have any pets in the home?  
 17 A. Yes.  
 18 Q. What kind of animals; do you know?  
 19 A. No.  
 20 Q. Are there --  
 21 A. I'm not familiar with the name of dogs.  
 22 Q. Do you recall --  
 23 A. They have -- go on. I'm sorry.  
 24 Q. They have dogs though?  
 25 A. Yes.

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1 Q. Did you ever inquire as to whether the  
 2 [REDACTED] smoke?  
 3 A. No.  
 4 Q. Did the issue of --  
 5 A. Let me say this. When we sat -- when I  
 6 got with the program specialist, we may have talked  
 7 and say, you know, "This child has asthma," and that  
 8 sort of stuff. We would have staffed it like that.  
 9 And if I'm not mistaken, she gave me two names.  
 10 Q. And you picked the [REDACTED] home?  
 11 A. I think we did it together. She  
 12 recommended it.  
 13 Q. And did you discuss at all the prior  
 14 court order ordering that the child not be exposed  
 15 to cigarette smoke or animals?  
 16 A. We were aware of it. And if I'm not  
 17 mistaken, we contacted a doctor, Dr. [REDACTED], if I'm  
 18 not -- if -- because I remember Ms. Poole giving me  
 19 two names. And I think we contacted the doctor. Or  
 20 the foster mother said I want to say something about  
 21 -- I remember asking if the dogs was inside or  
 22 outside. I remember that.  
 23 Q. And if you did contact the doctor  
 24 regarding this, this would be documented? This  
 25 should be documented in your case record?

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1 A. Yes, either my narrative or the program  
 2 specialist.  
 3 Q. Under [REDACTED]'s case name, correct?  
 4 A. Yes, yes.  
 5 MR. THOMPSON: I have no further  
 6 questions at this time. And we do reserve the right  
 7 to recall this witness at a later date.  
 8 MS. MALLETT: She may not come. I don't  
 9 have any questions.  
 10 (Time Noted: 4:39 p.m.)  
 11  
 12 Original: Eric E. Thompson, Esq.  
 13 Copy: Betty A. Mallett, Esq.  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
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 24  
 25

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1 CERTIFICATE OF DEPONENT  
 2 DEPONENT: Yutaska Simpson  
 3 DATE: October 26, 2004  
 4 CASE STYLE: Olivia Y, et al. vs. Haley Barbour, et  
 5 al.; U.S. District Court, Southern District of  
 6 Mississippi; Civil Action No. 3:04CV251N  
 7 ORIGINAL TO: Eric E. Thompson, Esq.

8 I, the above-named deponent in the  
 9 deposition taken in the herein styled and numbered  
 10 cause, certify that I have examined the deposition  
 11 taken on the date above as to the correctness  
 12 thereof, and that after reading said pages, I find  
 13 them to contain a full and true transcript of the  
 14 testimony as given by me.

15 Subject to these corrections listed below,  
 16 if any, I find the transcript to be the correct  
 17 testimony I gave at the aforesaid time and place.

Page	Line	Comments
12		
13		
14		
15		
16		
17		

18 This the \_\_\_\_ day of \_\_\_\_\_, 2004.

19 YUTASKA SIMPSON  
 20 STATE OF MISSISSIPPI  
 21 COUNTY OF \_\_\_\_\_  
 22 Subscribed and sworn to before me, this  
 23 the \_\_\_\_ day of \_\_\_\_\_, 2004.

24 Notary Public  
 25 My Commission Expires: \_\_\_\_\_

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1 CERTIFICATE OF COURT REPORTER  
 2 I, Julie Brown, Court Reporter and Notary  
 3 Public, in and for the State of Mississippi, hereby  
 4 certify that the foregoing contains a true and  
 5 correct transcript as taken by me in the  
 6 aforementioned matter at the time and place  
 7 heretofore stated, as taken by stenotype and later  
 8 reduced to typewritten form under my supervision by  
 9 means of computer-aided transcription.

10 I further certify that under the authority  
 11 vested in me by the State of Mississippi that the  
 12 witness was placed under oath by me to truthfully  
 13 answer all questions in the matter.

14 I further certify that I am not in the  
 15 employ of or related to any counsel or party in this  
 16 matter and have no interest, monetary or otherwise,  
 17 in the final outcome of this matter.

18 Witness my signature and seal this the  
 19 \_\_\_\_ day of \_\_\_\_\_, 2004.

20  
 21 JULIE BROWN

22 My Commission Expires:  
 23 April 3, 2008  
 24  
 25

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